



Jones, E. T. (2009, Jan 22). John Esterfeld vs. William Weston of Bristol: Chancery petition transcript, c.1499. Unpublished.
<http://hdl.handle.net/1983/1273>

Peer reviewed version

[Link to publication record in Explore Bristol Research](#)
PDF-document

University of Bristol - Explore Bristol Research

General rights

This document is made available in accordance with publisher policies. Please cite only the published version using the reference above. Full terms of use are available:
<http://www.bristol.ac.uk/red/research-policy/pure/user-guides/ebr-terms/>

Evan. T. Jones (ed.), ‘John Esterfeld vs. William Weston of Bristol: Chancery petition transcript, c.1499’, The National Archives, C1/199/76 (University of Bristol, ROSE, 2009)¹

The following document is a transcript of a petition, answer and replication in a case taken to the King’s Court of Chancery in the late 1490s. The ‘orator’ (i.e. plaintiff) in the dispute was John Esterfeld of Bristol, merchant, a former mayor of the town, who was acting here as one of the executors to the will of John Foster, d.1492.² The defendant was William Weston, another Bristol merchant, who was married to Foster’s daughter, Agnes. The dispute concerned the Westons’ alleged failure to maintain their house on Corn Street, or pay the quit-rent due on it, to the detriment of an estate established to support ‘Foster’s Almshouse’ in Bristol.³ The outcome of the case is not recorded in this document.

The transcription follows the spelling, capitalization and punctuation of the original document, which is written on one side of parchment, 27 x 45 cm. Reconstructions of suspensions are in italics, e.g. ‘tenements’ for ‘ten’ts’. The transcription also indicates the line number of the text in each section of the original document. The manuscript itself is in fairly poor condition; some parts can only be read under ultraviolet light and a few words proved indecipherable, these being indicated by a blank ‘_____’ in the transcript.

**To the moste reverend ffader in god my Lord cardynall
Archibisshop of Caunterbury and Chauncellar of Englund.⁴**

1. In the moste humble wise sheweth unto youre goode and *gracious* lordship youre Orator⁵ John Esterfeld of Bristowe marchaunt executor of the testament of John Fforster late of the same decessed that where the seid
2. John Fforster was seased⁶ amonges other landes and *tenements*⁷ of a mease⁸ with thappurternances⁹ ~~~~~ in Bristowe aforesaid wherin oon Willyam Weston than dwellyd and nowe dwelleth in fee¹⁰ and seased therof made ~
3. estate to¹¹ the said Willyam and oon Agnes then his Wif doughter of the seid John Fforster for terme of lyf¹² of the seid Agnes to thuse¹³ of the seid John Fforster and to which use and entent as the seid John Forster _____

¹ I would like to thank David Jones (Bristol Charities) for his advice on some of the technical aspects of the dispute and ‘Burning Gold Productions’ (Bristol) for contributing towards some of the research costs involved in producing this transcription.

² E. T. Jones (ed.), ‘Will of John Foster, merchant of Bristol, 6 August 1492’, <http://hdl.handle.net/1983/1182>.

³ The Weston’s house was located at what is now 41 Corn Street: R. H. Leech, *The Topography of Medieval and Early Modern Bristol: Part 1* (Bristol Record Society Publications, Vol. XLVIII), p. 54. John Foster’s Almshouse, in which was located the chapel of The Three Kings of Cologne, was established by John Foster, in 1484 on Steep Street (Colston’s Street) in the parish of St Michael’s on the Mount Without. It was rebuilt on the same site in 1702 and again in the nineteenth century: T. J. Manchee, ‘Foster’s Almshouse’, *The Bristol Charities*, Vol. I (Bristol, 1831), pp. 80-89; W. A. Sampson, ‘The almshouses of Bristol’, *Transactions of the Bristol and Gloucestershire Archaeological Society*, XXXII (1909), p. 101. In 2008 the almshouse was moved to Henbury (North Bristol) and the existing buildings were converted into private apartments.

⁴ John Morton, Archbishop of Canterbury 1486-1500, Chancellor 1487-1500 and cardinal 1493-1500. Died 15 September 1500.

⁵ ‘Orator’: orator. The technical name for a plaintiff or petitioner in a case in the Court of Chancery.

⁶ ‘Seased’: seized. In legal possession of.

⁷ ‘Tenements’. A property held of another by tenure.

⁸ ‘Mease’: Mese. A portion of land occupied by a dwelling house and its appurtenances.

⁹ ‘Thappurternances’: the appurtenances. The associated minor property.

¹⁰ ‘In fee’. Usually a short-form of fee-simple. The following clause makes it clear that it was Foster, not Weston, who held the land in fee.

4. that thereof declare and ordeigned to be *perfourmed* and don by the seid William and Agnes duryng the lyf of the seid Agnes by force wherof the seid William and Agnes were seased of the seid mesuage¹⁴ accordynge to
5. thuse and content aforeseid and *overthus your* said Oratour saieth that all mesuages londes and *tenements* lyeng within the seid Towne be and out of tyme of mynde have been dyvysable by testament¹⁵ And the seid John Fforster after
6. by his testament and last Will ordeigned and devysed that the seid Agnes shuld have the seid mesuage With *thappurtenaunces* duryng her lyf under this condicion folowyng that is to sey that the same William and Agnes duryng
7. the lif of the same Agnes shuld sufficiently repayre susteyne and mayntene the same mesuage as in Wallys Tymber Dore Wyndowes Tyles Pavymentes Vawtys Fforeynes¹⁶ and all other necessities as oft and when as
8. nede shuld require. And also that they shuld pay yerely duryng the seid time the quyte rentes¹⁷ hereafter folowyng that is to sey to the Prioress and Convent of the house of Seynt Mary magdeleyn¹⁸ in Bristowe and to their
9. successours xs. to the Abbot and Convent of Teuxbury¹⁹ and to their Successours iiis. and to the *procurators*²⁰ of the seid Church of Seynt Werburgh iiis yerely.²¹ And that if eny defaute of *reparacion*²² of the same mesuage
10. were founde at eny tyme thereafter by the seid executors of theseid John Fforster or by any of theym or by their *Atorney*²³ and then if the seid William Weston and Agnes his wif or either of theym were warned on the behalf
11. of the seid executours to amend the same defaultes. And then if all the same defaultes of *reparacions* of the same mesuage so found were not sufficiently reformed and amended at the *propere costes* of theseid William

¹¹ 'Made estate to' – i.e. gave legal title to.

¹² 'Terme of lyf': term of life.

¹³ 'Thuse': the use.

¹⁴ 'Mesuage': messuage. Another name for a mese.

¹⁵ 'Dyvysable by testament': devisable by testament – i.e. that which can be assigned by a will.

¹⁶ Wallys Tymber Dore Wyndowes Tyles Pavymentes Vawtys Fforeynes': walls, timber, doors, windows, tiles, pavements, vaults, foreigners (exterior space).

¹⁷ 'Quyte rentes': Quit-rents. In this sense, a charge on, or payment from, an estate for some special purpose. The total quit-rent payable (16s. per year) was well below the market value of the property, which an indenture of 1505 indicates was 63s. per year: Manchee, *Bristol Charities*, p. 82.

¹⁸ The Nunnery of St Mary Magdalen was located at the bottom of St Michael's Hill, 120 metres from Foster's Almshouse.

¹⁹ The Priory of St. James in Bristol was a dependent cell of Tewkesbury Abbey.

²⁰ 'Procurators': procurators. The official agents or financial managers of a church.

²¹ St Werburgh Church, which lay on the corner of Small Street and Corn Street. It was dismantled in 1879 and moved to a new district in north-east Bristol. NB: While this is the first mention of the church in the petition, the writer refers to the 'said church'. This suggests that he simply copied the bequest details from the will, which refers to the 'said church' at this point, having already mentioned St Werburgh's earlier on.

²² 'Defaute of reparacion': default of reparation – i.e. failure to maintain.

²³ *Atorney*: attorney.

12. Weston and Agnes from ~ tyme to tyme²⁴ Within two monethes next ensuyng after every of suche Warnyng²⁵ that then immediately theseid executours or their exectutours should entre in to theseid mesuage and make
13. sale of the same mesuage to suche persons as shall please theym to have to hym and to his heires for ever and over²⁶ that theseid John Fforster willed and declared by the same last will that theseid William Weston and
14. Agnes his wif duryng the lyf of theseid Agnes shuld pay yerely toward the reparacion of the Chapell and and Almeshouse stablissed and ordeygnd to be susteyned and kept in Bristowe aforesaid xs if necessitye
15. of reparacion of the same so requyre or elles not.²⁷ And also that thesaid exectuours shuld sell the reversion²⁸ of theseid mesuage with thappurtunances at Cornstrete to suche persones as shall please theym to have to hym and
16. to his heires for ever and that the money commyng of the sale of the same mesuage with thappurtenaunces shudbe devyded in thre eqall partes²⁹ wherof he willed that two partes shuldbe disposed aboute the maytenenunce ~
17. of theseid Almeshouse and the third parte of the same thre partes shuldbe applyed³⁰ to the profite of theseid church of Seynt Werburgh in Bristowe aforesaid as by the last Will of theseid John Fforster amonges other more
18. playnly appereth. And theseid John Esterfeld seith that the seid John Forster by his testament and last Will ordeigned and made theseid John Esterfeld his executour sens the deth of the which John Fforster your seid ~
19. Oratour hath ben credibly enformed that theseid mese is greatly in decaye for lacke of reparacions so that youre seid Oratour hath often seasons³¹ required theseid William Weston and Agnes to have the sight of theseid mese
20. with thappurtenaunce to thentent to knowe the reparacion therof whereunto theseid William Weston and Agnes Wold in noo wise agree but with force kepith youre seid Oratoure fro the sight of the same also ~
21. theseid William and Agnes ne neither of theym have payde the seid rents in manner and fourme above rehersed. So it is good and gracious lord that because your seid Oratour is a straunger to the seid condicion³² he may not by the

²⁴ 'From tyme to tyme': from time to time – i.e. at all times.

²⁵ 'Within two monethes next ensuyng after every of suche Warnyng' – i.e. within two months of having received a warning.

²⁶ 'Over': in addition.

²⁷ 'If necessitye of reparacion of the same so requyre or elles not' – i.e. a sum of up to 10s. per year should be paid if needed for the repair or maintenance of the almshouse.

²⁸ 'Reversion': The right to succeed to the property on the death of its current holder.

²⁹ 'Thre eqall partes': three equal parts.

³⁰ 'Applyed': employed.

³¹ 'often seasons' – i.e. at frequent intervals.

22. course of the *common lawe* entre ne compell theseid William Weston And Agnes to suffre hym to have the sight of theseid mese to know the *reparacion* of the same³³ And *overthis* theseid John Esterfeld hath *dyvers* tymes offerd to
23. sell the *reversion* of theseid mesuage to *dyverse persons*³⁴ Which wuld have bought thesame if they might have had the sight therof and knowledge of the *reparacion* of thesame for lack of knowetleth whereof of theseid *reversion* of
24. theseid mesuage is yet unsold to the hynderaunce of theseid last Will.³⁵ In consideracion of all the *premisses* that hit may therefore lyke youre seid good lordship the *premisses* considered to graunte a writ of subpena³⁶ to be directed
25. unto theseid Willyam Weston and Agnes *commandyng* theym by thesame to appere before the Kyng in his Chauncerye³⁷ at a *certyn* day and onder a *certyn* payn by *your* good lordship to be lymetted there to aunswere unto the *premisses*
26. and ferther to doo and obey as by *your* goode lordship shalbe thought reasonable And *your* seid Oratour shall dayly praye for the *preservacion* of youre goode and *gracious* lordship

**This is the aunswer of William Weston and Agnes his wif to
the bill of compleynt of John Esterfeld**

1. The seid Willyam and Agnes sayn that the seid bill is insufficient and *uncerteyn* and the *mater* therin conteyned is *determinable* at the *common lawe*³⁸ and is *mater fayned*³⁹ onely to put theseid Willyam and Agnes to trouble and vexacion And the
2. seid John Esterfeld hath afore this tyme in *dyverse* other places put theseid Willyam in trouble and vexacion for theseid *mater* Without cause reasonable howe be it for declaracion of trouth and aunswer to theseid bill theseid William and
3. Agnes sayn that theseid John Fforster made astate of theseid mease⁴⁰ especified in theseid bill of compleynt to theseid Willyam Weston and Agnes his wif doughter *the* nowe heire of the same John to have to them duryng the lif of theseid

³² ‘Straunger to the seid condicion’: stranger to the said condition – i.e. lacking knowledge of the condition.

³³ In other words, the orator cannot by recourse to Common Law get access to the property to inspect its condition. A failure to achieve justice under Common Law was a common reason for asking that a case be tried in Chancery.

³⁴ ‘Dyverse persons’: diverse persons – i.e. a number of different people.

³⁵ ‘Hynderaunce of theseid last Will’: hindrance or the said last will – i.e. to the obstruction of the testator’s expressed desires.

³⁶ ‘Writ of subpena’: writ of subpœna – i.e. a writ issued by Chancery commanding the presence of a defendant to answer the matter alleged against him.

³⁷ ‘Kyng in his Chauncerye’: King in his Chancery Court. In practice it was usually the Chancellor, acting on the King’s behalf, who heard cases.

³⁸ If Chancery could be persuaded that the case should most appropriately be judged in a Common Law court, the petition would be dismissed. Given that Esterfeld had already noted that he had not received satisfaction in Common Law, this would represent a *de facto* victory for William and Agnes.

³⁹ ‘Fayned’: feigned – i.e. invented.

4. Agnes to their owne use beforce⁴¹ Wherof they Were and yet be therof seased accordyng and after the seid John Fforster made his testament and last will and by thesame willed that if Richard his sone died Withoute heires of his
5. body that then all his londes and *tenements* in the Counties of Gloucester and dyvers other londes and *tenements* shuldbe sold by his executours and with the money commyng of the sale therof among other thinges purchase the grounde where
6. an Almeshouse is set and bilded in Bristowe and also a grounde where a chapell or a Chauntry is founded and bylded and in dischargyng of the quyte rentes and all the charges therof as by the same last Will more pleylnly appereth And after theseid John Fforster died
7. and after theseid Richard died withoute heires of his body after Whose deth theseid John Esterfeld and one John Walshe executours of the testament of theseid John Fforster with landes and *tenements* that were to theseid John Fforster to the yerely value of xx marces⁴² and recyved greate
8. sommes of money for the same londes and *tenements* sufficient to have bought the seid Chapell and Almeshouse and feue above the seid William and Agnes seyn that theseid xs especified in theseid bille of complynt to be payde to theseid Prioress and convent of Seynt Mary Maudlen
9. and theseid iiiiis to be payde to the abbot of Teukesbury and his Successours be rentes and charges due for theseid Chapell and Almeshouse which theseid executours be bounden to discharge by theseid last Will⁴³ and theseid William and Agnes sayen that theseid mease is sufficiently
10. repayred and not decayed of any reparation if it were in decay as it is not ther is sufficient remedy therefore by the course of the Comen lawe And theseid William Weston and Agnes sayen that they never denied the seid John Esterfeld to doe in theseid house that he oweth or ~
11. ought to do by right or by order of the lawe.⁴⁴ And theseid Willyam and Agnes sayen that if theseid John Fforster made any suche last Will it is voyde in asmoche as theseid William Weston and Agnes had afore that an astate of the same mese to their owne use as is ~

⁴⁰ 'Made astate of theseid mease': made estate of the said mese – i.e. gave a legal right or title to the property.

⁴¹ 'Beforce': by force.

⁴² 'xx marces': 20 marks – i.e. with an annual rental amounting to £13 6s. 8d.

⁴³ The argument was thus that the quit-rents that Foster had required Agnes to pay to the Convent of St Mary Magdalen (10s. per year) and the Abbot of Tewkesbury (4s. per year) were intended to pay for the ground rent on the Almshouse and Chapel, which the two religious houses owned. It seems likely that this was true, given that two indentures from 1483 and 1484 indicate that Foster had indeed rented the land from these houses, with the rental on the Abbot of Tewkesbury's land being set at 4s. per year: Sampson, 'The almshouses of Bristol', p. 101. The will had instructed, however, that if Richard Foster died without issue, the property bequeathed to him would revert to Foster's estate. It was then to be sold off by the executors to enable the purchase of the land on which the almshouse and chapel stood and to endow the almshouse in perpetuity. At this point there would be no need to pay rent on the property to the aforementioned religious houses. In the event, while Richard Foster had died without issue, the executors had not sold his land for the purposes envisaged in the will. The Westons therefore argued that it was unjust that they should pay the 14s. per year quit-rent.

⁴⁴ The Westons did not claim that have granted Esterfeld access to the house, only that they have done as much as the law required of them.

12. aforeseid⁴⁵ without that theseid John Fforster made eny astate of theseid mese to theseid William and Agnes to thuse of the same John. All whiche maters theseid William Weston and Agnes his Wife ben redy to prove as this courte will awarde And prayen to
13. be dismyssed out of the same with their costes and charges by theym susteyned for their Wrongfull vexacion in this behalf /

This is the replicacion of John Esterfeld to the aunswere of Willyam Weston and Agnes his Wyf

1. The seid John seithe that his bill is goode and true in every poynte and not fayned to put the seid William and Agnes to vexacion and trouble as in the seid aunswere is surmitted⁴⁶ And furthermore seith the seid John Fforster made
2. a leese⁴⁷ of the londes and his tenements in theseid bill specified to theseid William and Agnes for terme of the lif of theseid Agnes to thuse and behalfe of the same John and his heires and for the performaunce of his last will and ferder seithe⁴⁸ in all
3. thynges as in the seid bill as he hath alleyed⁴⁹ Without that⁵⁰ the estate made of the seid mese to theseid William and Agnes was to thiare use in the maner and fourme as in theseid aunswere they have supposed or that theseid John Fforster ordeigned ~
4. and declared by his last will that the money commyng by reason of the sale of theseid landes and tenements in the seid aunswers specified shuld be applyed for the dischargyng of eny of theseid rent or that theseid John Esterfeld and John Walshe sold enye of
5. the seid londes and tenements or that theseid mesuage with thappurtenaunces be sufficiently repayed And over this the same John Esterfeld seith that in the dede wherby the lease of the seid mease with thappurtenaunces was made theid William Weston and Agnes it ~
6. is aswell expressed as theseid will that theseid William and Agnes duryng the life of the same Agnes shuld content and pay theseid rent so that it evidently Appereth in conscience that theseid William and Agnes duryng the lyf of the same Agnes shuldbe ~
7. charged with the paymentes of the same.⁵¹ All which maters the seid John Esterfeld is redy to prove as that courte will award hym And praye as in his seid bill he hath prayed

⁴⁵ The Weston's claim was thus that they possessed legal title to the property *before* Foster's death. Since a will cannot give away something that the owner does not possess, they could not be required to pay the quit-rents.

⁴⁶ 'Surmitted': alledged.

⁴⁷ 'Leese': lease. A formal contract.

⁴⁸ 'Ferder seithe': further saith.

⁴⁹ 'Alleyed': alleged.

⁵⁰ 'Without that': without that. A legal phrase used to assert a special matter of exception to a claim made by the defendant. The following point was that Foster's will did not state that the money from the sale of the property should be used for the discharging of the rent.

⁵¹ Esterfeld's point was that the will / deed stated only that the quit-rents were to be paid during Agnes' life, so long as she occupied the Corn Street house. The payment of the quit-rents was not explicitly linked to the need to pay the Convent and Abbey any rent for the land on which the almshouse and chapel stood. So, even if the land had been purchased, the Westons would still have been liable to pay stated quit-rents 'in conscience' – i.e. by all that is right or reasonable. The appeal to 'conscience' was perfectly acceptable in this context, given that Chancery was a court of equity, which was meant to base its decisions on grounds of fairness.